

GUJARAT AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX A/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.	
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ADVANCE RULING NO. GUJ/GAAR/R/2017-18/2
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2017-18/AR/8)

Date : 13.12.2017

Name and address of the applicant	:	M/s. Power Build Private Limited Anand Sojitra Road, Vallabh Vidhyanagar, Anand – 388 120
GSTIN of the applicant	:	24AABCP2464K1ZF
Date of application	:	31.08.2017
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(a) classification of any goods or services or both;
Date of Personal Hearing	:	15.11.2017
Present for the applicant	:	Shri A.K. Pandey, DGM Shri Rashmin Vaja, CA

The applicant M/s. Power Build Private Limited has submitted that in manufacturing of ‘Geared Motors’, Electric Motors are assembled with Gear Boxes manufactured by them. Commercially, a Gearbox cannot have any use without being rotated and coupled with motor affixed to it. Utility of motor is to facilitate the running of any machine or conveyors in industries, whereas the speed of motor is fixed and it needs to be controlled, Gears are used to control the speed of final machine. As many customers insist on the Geared Motor, wherein Electric Motor is assembled with the Gear Box and is sold and cleared as a ‘Geared Motor’. Motor in this case may be manufactured or bought-out item. They submitted that in the erstwhile regime of Central Excise, mere Gear Boxes were classified under HSN Code 8483 and Geared Motor under HSN code of 8501, and both their products were being taxed at 12.5% under Central Excise. They submitted that under the GST regime, the classification remains the same but rates of GST have changed; that HSN of Motor is 8501 which is taxed at the rate of 18% and Gear Box under HSN of 8483 which is taxed at the rate 28%. They referred to the descriptions given in Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 and submitted that GST rate @ 18% would be applicable for Electric Motors (whether geared or otherwise). HSN Code of Electric Motors would be applicable for Geared Motors as well and accordingly they would be raising invoice to their customers under HSN Code of 8501 charging 18% of GST.

2. The applicant submitted that they are engaged in supplying ‘Geared Motor’, which is an assembly product of the ‘Electric Motor’ and ‘Gear Box’. Electric Motor is covered under HSN code 8501 attracting GST at 18%, while Gear Box falls under HSN code 8483 attracting GST at 28%, however, HSN code and tax rate for product ‘Geared Motor’ is not provided under law.

3. The applicant has raised following question for advance ruling in their application :-

What is the HSN Code and GST Tax Rate of a product 'Geared Motor'?

4.1 The Commissioner of Central Excise & GST, Vadodara – I Commissionerate informed that it is a fact that the HSN code and GST Tax Rate of product 'Geared Motor' is not clearly mentioned in the GST Tariff, therefore, for determining the HSN code and GST Tax rate of the product, one need to go through the major inputs, process of manufacture and end use of the product, through which an inference can be drawn about the same. It was informed that the applicant vide letter dated 14.08.2017 has submitted as follows :-

Major Inputs : Major inputs utilized for the production of Geared Motor and its HSN Code with GST Rate of duty is mentioned below :

Sl. No.	Name of Inputs	HSN Code	Rate of GST
1	Electric Motor	8501	18%
2	Bearing	8482	28%
3	Casting	7428	28%
4	Steel Round Bar	7206	18%
5	Fastener	7318	28%
6	Oil Seal	4016	28%
7	Oil	3403	28%

Process of Manufacturing : The process is explained as –

Gear Box

- Casting of Gear Case machined on CNC Horizontal Machining Centre.
- Steel Round Bar undergoes series of manufacturing processes like cutting, turning, keyways, hobing, heat treatment, skiing etc.
- Gear Box becomes mechanical product.

Geared Motor

Assembly of Electric Motor with Gear Box becomes Geared Motor which is electrical product.

End use of the product :

In general, Gear Box are assembled with the Electric Motor and used in following industries –

- Agriculture
- Pharma
- Cement
- Pulp and Paper
- Fertilizer
- Textile
- Rice Mill
- Food Industries

4.2 It is submitted that from the above inputs, process and end use of the product, it is inferred that the Geared Motor is a device in which an Electric Motor is fixed with the Gear Box for changing its speed and torque. In addition, the very first paragraph of the catalogue of the Geared Motor of applicant company mentions as follows :-

“Geared Motors and Gearboxes are the heart of any engineering product. It is not just the torque and speed but the reliability of the Geared Motor that defined the performance of your product or equipment.”

Gear Box is a device which is used to transmit mechanical power and speed from one shaft to other shaft. Gear Box helps in changing the direction as well as output RPM with the help of various combination in gearing. Gear box is mechanical power device. HSN code of Gear box is 8483 and GST rate of Gear box is 28%.

Electric Motor is a device which converts electrical current in to rotating mechanical motion. HSN code of Electric motor 8501 and GST rate of Electric Motor is 18%.

4.3 Hence, it is submitted that the Geared Motor is a device which is used to change the speed & torque of an electric motor. Accordingly, it is noted that the correct applicability of HSN code of product ‘Geared Motors’ fall under HSN 8483 4000 specifically which is described as “Gears and Gearing, other than toothed wheels, chain sprockets and other transmission elements presented separately, ball or roller screws; gear boxes and **other speed changers, including torque converters**” . Accordingly, it will be taxable under Schedule IV of GST Act with 28% of GST rate.

5.1 The Assistant Commissioner, State Tax, Ghatak-51, Anand informed that ‘Geared Motor’ is an assembly product of ‘Electric Motor’ and ‘Gear Box’. ‘Electric Motor’ falls under HSN 8501 and attracts GST rate of 18% whereas ‘Gear Box’ falls under HSN 8483 and attracts GST rate of 28%. There is no specific entry for ‘Geared Motor’ in GST Schedule.

5.2 It is further informed that by assembly of ‘Gear Box’ and ‘Electric Motor’, a distinct product ‘Geared Motor’ is manufactured, which has no direct use, but it is used as parts in Machinery, Tools, Appliances industries. As there is no specific entry for ‘Geared Motor’, the rate of tax may be determined on the basis of its uses e.g. in the erstwhile VAT Act, the Gearbox used in machinery were known as Machinery Parts, Gearbox used in Automobiles were known as Auto Parts and Gearbox used in Tractor were known as Tractor parts and even though these three were Gearbox, as per different designs and use in different sectors, the tax rates were applicable accordingly.

5.3 It is also informed that the applicant has given information about ‘Geared Motor’ in Annexure A – Brief about company and Annexure B – Statement of interpretation by applicant, but it has not been clarified the sectors in which the said product is used.

5.4 It is also informed that the ‘Geared Motor’ was considered as Machinery under Schedule – 2(58)A vide decision dated 25.03.2011 in applicant’s own case and decision dated 11.05.2011 in case of M/s. Jasood Extrusion Pvt. Ltd. rendered under Section 80 of erstwhile Gujarat VAT Act, but under GST schedule, different rates are applicable for different machineries.

5.5 In view thereof, as the 'Geared Motor' is used in (i) Automobile Sector, (ii) Machinery, (iii) Home Appliances and (iv) Tools, and which 'Geared Motor' is used in which types of industries is not clear from the application, it has been opined that that product 'Geared Motor' is classifiable under respective commodity parts on the basis of use in specific commodity (HSN – 8428, 8509, 8708, 8483).

6. We have considered the submissions made by the applicant in their application for advance ruling as well as at the time of personal hearing on 15.11.2017. We have also considered the information and views submitted by the Commissioner of Central Excise & GST, Vadodara – I Commissionerate and the Assistant Commissioner, State Tax, Ghatak-51, Anand.

7.1 The issue involved in this case pertains to classification of the product 'Geared Motor' i.e. whether 'Geared Motor' falls under Chapter Heading 8483 or 8501 of the Customs Tariff Act, 1975. On the basis of the classification of the said product, it will be leviable to appropriate rate of Goods and Services Tax prescribed under Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 issued under the Central Goods and Services Tax Act, 2017 (herein after referred to as the 'CGST Act, 2017') and corresponding Notification issued under the Gujarat Goods and Services Tax Act, 2017 (herein after referred to as the 'GGST Act, 2017') or the Integrated Goods and Services Tax Act, 2017.

7.2 It is observed that the Explanation (iii) and (iv) of the Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 provides as follows :-

“Explanation. - For the purposes of this notification, -

(i)

(ii)

(iii) “Tariff item”, “sub-heading” “heading” and “Chapter” shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.”

7.3 Further, Hon'ble Supreme Court in the case of L.M.L. Ltd. Vs. Commissioner of Customs [Civil Appeal No. 3764 of 2003, decided on 21.09.2010 reported at 2010 (258) ELT 321 (S.C.)] has held as follows :-

“12. In Collector of Central Excise, Shillong v. Wood Crafts Products Ltd. reported in (1995) 3 SCC 454, it was held by this Court that as expressly stated in the statements of objects and reasons of the Central Excise Tariff Act, 1985, the Central Excise Tariffs are based on the Harmonious System of Nomenclature (HSN) and the internationally accepted nomenclature was taken into account to reduce disputes on account of tariff classification. Accordingly, for resolving any dispute relating to tariff classification, a safe guide is the internationally accepted nomenclature emerging from the Harmonious System of Nomenclature (HSN). Although, the decision in the case of Woodcraft Products (supra) dealt with the interpretation of the provisions of the Central Excise Tariff there can be no doubt that the HSN Explanatory Notes are a dependable guide even while interpreting the Customs Tariff.”

8.1 It is observed that ‘Gears and gearing; gear boxes and other speed changers, including torque converters’ fall under Chapter Heading 8483 whereas ‘Electric Motors’ fall under Chapter Heading 8501. The product ‘Geared Motor’ is an assembly product of the ‘Electric Motor’ and ‘Gear Box’. It is submitted that there is no specific entry for the product ‘Geared Motor’ either under Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 or under the Customs Tariff Act, 1975.

8.2 The Explanatory Notes for ‘Gear Boxes and other Speed Changers, including Torque Converters’ under Tariff Heading 8483 of the Harmonised System of Nomenclature provides as follows :-

**“(E) GEAR BOXES AND OTHER SPEED CHANGERS,
INCLUDING TORQUE CONVERTERS**

These provide a range of speeds which can be varied, either by hand or automatically, according to the requirements of the machine. They include, inter alia :

(1) Gear-boxes consisting of assemblies of gears which can be selected in alternative arrangements; the speed of transmission can thus be varied according to the arrangement of gears set.

(2)

(3)

.....

The heading does not cover gear boxes or other variable speed changers combined with a motor; these are classified in the same heading as the motor.

[underlining supplied]

8.3 The Explanatory Notes for ‘Electric Motors’ under Tariff Heading 8501 of the Harmonised System of Nomenclature, *inter-alia*, provides as follows :-

“(I) ELECTRIC MOTORS

Electric motors are machines for transforming electrical energy into mechanical power.

(A)

Motors remain classified here even when they are equipped with pulleys, with gears or gear boxes, or with a flexible shaft for operating hand tools.

.....

(B)

[underlining supplied]

8.4 Thus, the Tariff Heading 8483 does not cover Gear Boxes or other variable speed changers combined with a motor. Motor remain classified under Tariff Heading 8501 even when they are equipped with pulleys, with gears or gear boxes, or with a flexible shaft for operating hand tools.

8.5 Therefore, on the basis of the Explanatory Notes of HSN under Tariff Heading 8483 and 8501, it is evident that the product 'Geared Motor', which is an assembly product of the 'Electric Motor' and 'Gear Box', will appropriately fall under Chapter Heading 8501 of the Customs Tariff Act, 1975, and we hold so.

9. In view of the foregoing, we rule as under –

RULING

The product 'Geared Motor' is classifiable under Chapter Heading 8501 of the Customs Tariff Act, 1975 and Goods and Services Tax rate applicable to Chapter Heading 8501 is applicable to the said product.

(R.B. Mankodi)
Member

(G.C. Jain)
Member

Place : Ahmedabad
Date : 13.12.2017.